IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITON NO.3425 OF 2006

M/s.Jai Hind Oil Mills Co. & Anr. ..Petitioners.

V/s.

Union of India & Ors. ..Respondents.

Mr.Parish Jaiswal i/b. Kanga & Co. for petitioners.
Mr.Y.R.Mishra for respondents.

CORAM : V.C. DAGA AND
J.P.DEVADHAR, JJ.

DATED : 12TH JUNE, 2006.

P.C. :-

1. Rule, returnable forthwith.

2. Mr.Mishra waives service for the respondents.

3. Heard finally with the consent of the parties. Perused the petition.

4. In this petition, the petitioner is seeking provisional clearance or in alternate liberty to redraw the samples of the goods imported under the Bill of Entry dated 23rd March, 2006; so as to enable the petitioner to get it tested from any Government approved Laboratory other than CLF, Pune.

5. The learned counsel for the petitioner now makes a statement that the petitioner does not want to

press the first relief leading to provisional release of the goods. In that view of the matter, the prayer made for provisional release of the goods stands rejected as not pressed.

6. So far as the second prayer leading to redrawing of samples of the goods in question is concerned, the learned counsel appearing for the respondents; though; at the outset tried to oppose this prayer, but could not show any prejudice; which the department would suffer; if petitioner is allowed to redraw samples for getting it tested. He could not take his opposition to the said prayer to its logical end. Ultimately, at the fag end of his submissions, he admitted that no prejudice would be caused to the department. Considering the submissions made and the consensus between the parties, the petitioner is allowed to redraw samples of the goods imported under the Bill of Entry dated 23rd March, 2006 with a view to carry out another testing from any Government approved Laboratory other than CLF, Pune. Consequently, respondents are directed to permit the petitioner to take out the samples of the goods within 15 days from today.

7. In the result, alternate prayer mentioned above is granted. Rule is made absolute in above terms of this order with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)